IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.20205 OF 2006

Shri Gundu Lakku Patil. ...Petitioner
V/s.
Union of India & Ors. ...Respondents

Mr.Shrishail Sakhare for Petitioner.

CORAM : R.M.S. KHANDEPARKAR &
V.M. KANADE, JJ.

DATED : SEPTEMBER 25, 2006

P.C. :-

1. Heard.

2. The grievance of the petitioner is that the petitioner has not been paid pension after termination of his services and in that connection, reliance is sought to be placed on the decision of the Apex Court in the matter of **Major G.S. Sodhi V/s. Union of India reported in 1991 2 SCC 371.** Undisputedly, by letter dated 9th June, 1997, the petitioner was informed that on verification of records, it was revealed that he was declared deserter and finally dismissed from service as deserter with effect from 21st November, 1973 and therefore, he was not entitled for any service pension.

Undisputedly thereafter, the petitioner did not take any legal proceedings and it was only on 28th August, 2002, Advocate notice was served upon the respondent claiming pensionary benefits. Even thereafter, no petition was filed till 29th August, 2006. Apparently, there are laches, which are not explained, in approaching the Court.

3. In **Major G.S.Sodhi**'s case (supra), the Apex Court had held that since the order which was passed in the court martial proceedings inflicting punishment upon the delinquent, did not disclose punishment of forfeiture of pension or other service benefits to the delinquent in the said case, he was entitled for pensionary benefits. In the case in hand, on specific query as to whether the order passed in the petitioner's case disclose any forfeiture of pensionary benefits, the learned Advocate for the petitioner apart from drawing our attention to the communication dated 9th June, 1997 could not disclose any material which could reveal that the order declaring the petitioner as deserter and dismissal from service with effect from 21st November,

1973 did not include the order regarding forfeiture of pensionary benefits. To the specific query as to whether the petitioner has obtained the order of dismissal and why the same has not been placed before this Court, it was informed that the petitioner did try to get the copy of the order but was not furnished with any such copy. Another query was raised as to when the copy thereof was asked for, again apart from drawing attention to the communication dated 9th June, 1997, the learned Advocate for the petitioner could not place on record any other material in that regard. Apparently there does not seem to be either desire of the petitioner to disclose the real fact regarding the order of dismissal or there is any sincere attempt by the petitioner to know the same from the concerned authority before filing the petition.

4. For the reasons stated above, on account of laches which have not been satisfactorily explained, the petition is rejected.

(R.M.S. KHANDEPARKAR, J.)

(V.M. KANADE, J.)